IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.13547 of 2004

Between:

K.M. Hazrath Saheb, S/o. Late K.M. Gafoor Sab, 49 years,
H.No.2/124, Vagarur (V) and Gram Panchayat, Manthralayam Mandal, Kurnool District.

...PETITIONER

AND

1. The Joint Collector, O/o.The District Collector, Kurnool Town & District.
2. The Revenue Divisional Officer, Adoni Town, Kurnool District.
3. The Mandal Revenue Officer, Manthralayam Village and Mandal, Kurnool District.
4. Sri Srinivasulu, 50 years, In charge Village Secretary of Vagarur Gram Panchayat, Kosgi Village and Mandal, Kurnool District.
5. Nagabhushan Reddy, 50 years, Kallekunta and Gram Panchayat, Manthralayam Mandal, Kurnool District.
6. Abdul, S/o.Shaik Hussain, 30 years, near Dargah, Vagarur Village and Gram Panchayat, Manthralayam Mandal, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, more appropriately a writ of Mandamus declaring the action of the respondent Nos.1 to 3 is arbitrary, illegal, unconstitutional, null and

void.

Counsel for the Petitioner: MR.K.VIJAYAKUMAR REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.13547 of 2004

ORDER:

The petitioner is an authorized dealer of a fair price shop. According to the petitioner, the authorization issued in his favour is subsisting and the same is neither suspended nor cancelled as on today. It is alleged that in spite of the fact that the authorization is subsisting, the respondents failed to supply the essential commodities for distribution to the cardholders. Hence, this Writ Petition challenging the alleged action of the respondents in not supplying the essential commodities for distribution to the cardholders.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

Even assuming that the proceedings under Section 6-A of the Essential Commodities Act, 1955 or any other enquiry with regard to the alleged irregularities in distribution of the essential commodities are pending against the dealer, the question is whether the authorities can refuse to supply the essential commodities to the dealer without either suspending or cancelling the authorization.

This issue has been considered by a Full Bench of this Court in ***Oleti***

Tirupathamma v. District Supply Officer (City), Visakhapatnam And Others and while concluding that in such circumstances the proceedings under Article 226 of the Constitution of India are maintainable, it has been held as under:

"The High Court while exercising its jurisdiction under Article 226 of the Constitution of India, acts sentinel qui vive and thus it has to protect the citizen from arbitrary and capricious action of the executive. If the licensing authority themselves upon application of mind come to the conclusion that the irregularities committed by the fair price shop dealer would warrant suspension of his licence, it may do so. But, in our considered opinion, the authority without taking recourse to the said action, cannot, refuse to supply the essential commodities."

In the light of the ratio laid down by the Full Bench in the above decision, the Writ Petition is disposed of with a direction to the respondents to supply the essential commodities to the petitioner in case the petitioner is holding a valid authorization and the same is neither suspended nor cancelled as on today. It is made clear that this shall not preclude the respondents to initiate appropriate proceedings against the petitioner if the circumstances so warrant, following due process of law.

The Writ Petition is accordingly disposed of. No costs.

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(G.ROHINI, J)

11th October 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Joint Collector, O/o.The District Collector, Kurnool Town & District.
2. The Revenue Divisional Officer, Adoni Town, Kurnool District.
3. The Mandal Revenue Officer, Manthralayam Village and Mandal, Kurnool District.
4. The In charge Village Secretary of Vagarur Gram Panchayat, Kosgi Village and Mandal, Kurnool District.
5. Two CCs to G.P. for Civil Supplies, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.